REMARKS

Claims 1-121 remain pending in the instant application. Claims 1-121 presently stand rejected. Claims 1, 35, 59, 80, 90, 98, 106, and 113 are amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

Claim Rejections – 35 U.S.C. § 102

Independent claims 1, 35, 59, 80, 90, 98, 106, and 113 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Payton (US 5,790,935).

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the claim." M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Amended independent claim 1 now recites, in pertinent part

> receiving broadcast communications including ... content descriptors including descriptions of a plurality of corresponding content pieces being considered for future broadcast;
>
> performing a ranking algorithm to rank at least a portion of the plurality of content pieces based at least in part on the content descriptors **prior to broadcast of the content pieces described by the content descriptors** to generate a ranking feedback indicating desirability of the portion of the plurality of content pieces **prior to their broadcast**; and
>
> ...

Applicants respectfully submit that Payton fails to disclose ranking broadcast content pieces based on content descriptors prior to the content pieces themselves being broadcast.

The Examiner acknowledges that Payton discloses feedback generated based on previously requested programs. See *Office Action* mailed 2/9/06, page 2, Response to Arguments. However, the Examiner argues that Payton discloses that a program that has been previously requested can also be broadcast again and therefore "previous requested programs are programs considered for future broadcast." *Id.*

Accordingly, amended independent claim 1 now recites ranking content pieces prior to broadcast of the content pieces based on their corresponding content descriptors.

In contrast, Payton discloses a technique that enables a subscriber (e.g., viewer) to rate programs that he or she has **previously requested**. To be sure, Payton states (see FIG 2 of Payton for reference),

> A subscriber data base 38 stores a subscriber profile 40 for each of the subscribers. The subscriber profile 40 preferably includes a rating vector (shown in FIG. 6) in which the subscriber has rated each of the items he or she has **previously requested**.

Payton, col. 5, lines 6-10 (emphasis added). Therefore, Payton clearly fails to disclose a techniques that enables "ranking" content pieces prior to broadcast of those content pieces. This is self evident by the fact that Payton only discloses a technique by which broadcast items are ranked after they have been broadcast, not before. Payton discloses a technique that uses feedback from **previously broadcast programs** to predict what a subscriber may desire to view in the future and download recommended programs to a local storage for virtual on-demand viewing. **However, Payton does not disclose a technique to actually rank a broadcast item prior to broadcasting the specific item.**

Consequently, Payton fails to disclose each and every element of claim 1, as required under M.P.E.P. § 2131. Independent claims 35, 59, 80, 90, 98, 106, and 113 now include similar novel elements as independent claim 1. Accordingly, Applicants request that the instant §102 rejections of claims 1, 35, 59, 80, 90, 98, 106, and 113 be withdrawn.

Claim Rejections – 35 U.S.C. § 103

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03.

The dependent claims are novel and nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 102 and § 103 rejections of the dependent claims be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

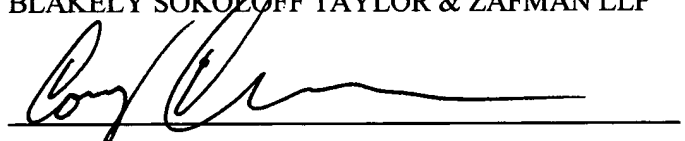
CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date: April 14, 2006



Cory G. Claassen
Reg. No. 50,296
Phone: (206) 292-8600